

MCCATHERN

SHOKOHI • EVANS • GRINKE

LEVI MCCATHERN
PARTNER
Board Certified – Civil Trial Law
Board Certified – Labor & Employment Law
Texas Board of Legal Specialization
lmccathern@mccathernlaw.com

February 13, 2023

Via CM-RRR No. 7011 1570 5611 7979

Renaissance Phoenix Downtown Hotel
Attn: General Manager
100 N. 1st Street
Phoenix, AZ 85004

Via CM-RRR No. 7011 1570 0001 5611 7986

CT Corporation System as Registered Agent for
Marriott International, Inc.
1999 Bryan St., Suite 900
Dallas, TX 75201

Re: Surveillance Footage - February 5, 2023

To Whom It May Concern:

Please accept this correspondence as Michael Irvin's official Demand to Preserve Evidence to Marriott International, Inc. ("Marriott"), in relation to and in connection with the alleged incident involving Mr. Michael Irvin that occurred at the Renaissance Phoenix Downtown Hotel (the "Hotel") on Sunday February 5, 2023, which is the basis of the original petition filed in Collin County, Texas by Mr. Irvin on February 9, 2023, bearing Cause No. 429-006274-2023.

A party's duty to preserve evidence arises as soon as it knows or reasonably should know: (1) there is a substantial chance a claim will be filed; and (2) evidence in its possession or control will be material and relevant to that claim. Marriott's duty to preserve evidence arose, at the latest, when Marriott reported alleged misconduct to the National Football League ("NFL"). Marriott's duty to preserve has been ongoing since that time. Let this letter serve as Mr. Irvin's notice to Marriott of its ongoing duty to exercise reasonable care to preserve evidence related to Irving's claims and Marriott's potential defenses.

Specifically, this letter serves as a **FORMAL DEMAND THAT YOU PRESERVE ANY AND ALL EVIDENCE RELATING TO** the incident involving Michael Irvin that occurred near or at the bar located near the Hotel's lobby on February 5, 2023, between approximately 10:30 pm and 11:59 pm. Additionally, Mr. Irvin demands that you preserve any footage of him at the Hotel from his arrival until his forced departure from the Hotel by Marriott Management.

Demand is hereby made for your company to maintain and preserve any and all originals and copies of videos, including security and surveillance videos, and photographs of the inside, outside, and entrance ways of the Renaissance Phoenix Downtown Hotel **for the 48-hour period before and after the above-described incident**. Please immediately forward copies of these videos and photographs to my attention.

Kindly note it is imperative that you take affirmative steps to preserve any item(s) related to the above-referenced incident/claim. **The failure to do so may constitute negligent or intentional spoliation of evidence which can result in the imposition of sanctions in any lawsuit or action, including an order**

McCATHERN PLLC

Renaissance Phoenix Downtown Hotel
Marriott International, Inc.
February 13, 2023
Page 2

barring the introduction of any such evidence and ordering any jury to presume the evidence would be harmful to Marriott's defense of Mr. Irvin's claims.

Mr. Irvin demands, as a show of good faith, that Marriott provide him with a copy the relevant surveillance and any relevant policies or procedures Marriott employees are to follow when reporting and investigating alleged misconduct of guests.

Thank you for your professional courtesy and cooperation as well as your attention to this matter. Please contact the undersigned upon receipt of this letter to discuss the matter.

Sincerely,

/s/ Levi McCathern

Levi G. McCathern, II